

## **Appendix A - Copy of correspondence between the Lead Petitioner and Head of Democratic Services**

**From:** "Usher, Leigh" <[LUsher@Fareham.Gov.UK](mailto:LUsher@Fareham.Gov.UK)>

**Date:** 4 January 2018 at 17:37:46 GMT

**To:** "

**Subject:** **Petition: Stop the building of 1500 new homes in Warsash, Locks Heath, Park Gate and Titchfield Common**

Dear

I am contacting you as you are the Lead Petitioner for the above petition which comprised both an electronic and paper petition.

I can advise you that both petitions have been verified and cross-checked and the final figure is 2,390 signatures. I can now confirm what we plan to do in response to the petition.

The Council's Petition Scheme states that "If a petition contains more than 1,500 valid signatures it will be debated by the Council" and "the Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at a subsequent meeting."

The total number of signatures on both petitions surpasses the 1,500 figure, however as the petition was raised in response to the consultation on the Draft Local Plan, it would not be appropriate to debate this matter at the next Council meeting, for reasons I will outline below. I will also set out what the Council will do to ensure your petition is referenced and given full exposure at every opportunity to ensure both Councillors and the public are aware of it and the weight of support behind it.

I have referred the Council's Petition Scheme above and the threshold to trigger a debate at a Council meeting. However, if there are Statutory processes which must take precedence over the petition then we are legally bound to adhere to those. I indicated above that it would not be appropriate in this instance for a Council debate to be scheduled immediately in respect of this petition.

This is to avoid a situation where Councillors publicly voice their opinions on how they will vote on the issue of site allocations for housing prior to the Local Plan being presented to Council for formal determination, or prior to any planning applications on those specific sites coming forward to the Planning Committee for approval. This is known as pre-determining the issues and could compromise a Members' ability to take part in decision making at Planning Committee or Council.

We will ensure that the petition is given as much exposure as possible throughout the various processes and any Planning Applications which do come to the Planning Committee before the Local Plan is adopted will be dealt with in accordance with Planning Regulations. The Officers' reports published on the agenda on the relevant planning applications will make reference to the petition to ensure that Members are informed of it and take account of the petition when determining the application.

I am advised by the Executive Leader, Councillor Seán Woodward, that he will give a verbal update at the Executive meeting on Monday 8 January to acknowledge your petition in response to the consultation on the Draft Local Plan. This update will be recorded in the official minutes of that meeting, which is a meeting held in public, and will be published on the Council's website.

Furthermore, at the Council meeting on the 23 February, a further verbal update will be given to confirm the number of signatories on the petition.

When your petition is debated by Council, which will be scheduled for when the Local Plan comes forward for adoption, you will be able to make a Deputation to that meeting and, in the meantime, should any applications be made to the Planning Committee against any of the Site Allocations cited in your petition, you are also able to make a deputation request at any Planning Committee under the regular Planning Committee Deputation Scheme.

Details of the Council's Petition Scheme can be found on our website at [http://www.fareham.gov.uk/about\\_the\\_council/council\\_and\\_democracy/makingdeputation.aspx](http://www.fareham.gov.uk/about_the_council/council_and_democracy/makingdeputation.aspx). Alternatively, please contact either myself or a member of the Committee team who would be more than happy to discuss this further with you.

I appreciate that these are complex processes and whilst I hope that the descriptions above give you an indication of what will happen with your petition, I am very happy to discuss this with and go into further detail on the legal and statutory processes, if necessary.

Kind Regards

Leigh

Leigh Usher  
Head of Democratic Services  
Fareham Borough Council  
01329 824553



---

**From:**

**Sent:** 14 January 2018 12:16

**To:** Usher, Leigh <[LUsher@Fareham.Gov.UK](mailto:LUsher@Fareham.Gov.UK)>

**Cc:**

**Subject:** Re: Petition: Stop the building of 1500 new homes in Warsash, Locks Heath, Park Gate and Titchfield Common

Good Morning Ms Usher,

Thank you for your email below regarding the petition that was handed in on 8th December 2017.

As informed by \_\_\_\_\_ in her email to you dated 04/01/18, I am now the contact point regarding the petition, in \_\_\_\_\_'s absence.

I, the group which I represent (SaveWarsash and the Western Wards) and the residents of Warsash are disgusted to hear that despite our petition meeting the criteria for a debate by the Council, this is not going to happen until a point much later in the process i.e. when the Local Plan is adopted. Obviously this will be too late to influence any decisions/ amendments made to the Draft plan and seems to be a deliberate ploy to avoid taking into account the voices of local residents who allegedly are being 'consulted'.

1. Can you explain to me why the numbers on the petition dropped to 2,390 when I personally counted the paper signatures and added them to the online numbers to make 2449 (1034 paper and 1415 online)?

2. Can you set out the Statutory processes to which you are legally bound to adhere to and which are taking precedence over the petition in this case please?

3. You state 'if there are Statutory processes'. Are you unsure if there are or not in this case?

4. What does 'referenced and given full exposure' mean exactly please?

5. Your description of 'pre-determining the issues' sounds as far from a democratic process as you can get. To prevent councillors, who have been voted into their role by residents, from taking the strength of feeling from those residents into account at ANY stage of the proceedings sounds like selective gagging orders to me.

6. I will repeat a question I have posed to Sean Woodward. Perhaps you could provide me with some clear suggestions on alternative routes to getting us heard. The question is:

So the 'consulted' residents of Warsash, in huge numbers, are following due process to get heard, but cannot. Please tell us what we need to do to make you hear us.

I look forward to hearing from you. Thank you.

---

**From:** "Usher, Leigh" <[LUsher@Fareham.Gov.UK](mailto:LUsher@Fareham.Gov.UK)>

**Date:** 18 January 2018 at 16:06 GMT

**To:** "

**Subject: Petition: Stop the building of 1500 new homes in Warsash, Locks Heath, Park Gate and Titchfield Common**

Dear

Thank you for your enquiry regarding the Warsash, Locks Heath, Park Gate and Titchfield Common petition received by the Council on the 8<sup>th</sup> December 2017. I note that you are now the main point of contact and have amended our records accordingly.

For the sake of clarity, I shall answer your questions in order, keeping to your numbering for ease of reference.

**1. Can you explain to me why the numbers on the petition dropped to 2,390 when I personally counted the paper signatures and added them to the online numbers to make 2449 (1034 paper and 1415 online)?**

I can confirm that all petitions received are checked to ensure that the signatures are valid in accordance with the Council's petition scheme; ie. the signatory lives, works or studies in the Borough. Because \_\_\_\_\_ had indicated that the online and paper versions of the petition should be treated as one, they were cross checked to eradicate duplicates. The results of that check are as follows:

<b>Total signatures to start with:</b>	
online petition	1415
paper petition	1034
	<b>2449</b>
signed paper petition twice	-15
	<b>2434</b>
signed online & paper petition	-33
	<b>2401</b>
signed online twice using diff addresses	-10
	<b>2391</b>
staff test signature	-1
	<b>2390</b>

**2. Can you set out the Statutory processes to which you are legally bound to adhere to and which are taking precedence over the petition in this case please?**

The Statutory processes which supersede Fareham's local petition scheme in this case are a number of Planning Regulations which the Council must adhere to in its role as a Planning Authority. There are two key streams to this work: one being Planning Strategy under which the Local Plan is developed and adopted; the other is in determining planning applications.

**Planning Strategy**

Fareham Borough Council, as the Local Planning Authority, is required to prepare a Local Plan. The preparation of the Local Plan, including the public consultation exercise and consideration of the responses received, is an Executive function of the Council. As you know, on the 9<sup>th</sup> October 2017 the Executive approved that the Draft Local Plan for Fareham be published for a six-week period of consultation.

The main legislation setting out the process for the preparation of Local Plans can be found in Part 2 of the *Planning and Compulsory Purchase Act 2004 as amended* and *The Town and Country Planning (Local Planning) (England) Regulations 2012 as amended*. Further processes are set out in the [National Planning Policy Framework](#).

### **Determining planning applications**

The determination of planning applications is a regulatory function of Fareham Borough Council, delegated to the Planning Committee and set out in the Town and Country Planning Act 1990. In deciding planning applications, the Planning Committee is required to determine applications in accordance with the Local Plan, having regard for material considerations.

There are timescales set out in the regulations which dictate that a planning application should be considered for decision within 13 weeks of the application being made. If this timeframe is not met, the Council would put itself at risk of a Non-Determination Appeal being submitted by the applicant. Therefore, there are 3 applications in the Warsash area being presented to the Planning Committee for decision on the 24<sup>th</sup> January 2018.

The guidance on the National Planning Policy Framework states that development should not stop whilst Local Plan Reviews are carried out.

### **3. You state ‘if there are Statutory processes’. Are you unsure if there are or not in this case?**

I am sorry that my language was misleading; I was attempting to describe a generic scenario. It would perhaps read better with the correction of “as there are Statutory processes”.

### **4. What does ‘referenced and given full exposure’ mean exactly please?**

As you will recall from my previous e-mail, in a case where there are no other statutory processes to be taken into account (ie a “standalone” petition), the usual route for a petition of more than 1,500 signatures is to be debated at the next scheduled Council meeting. As explained previously, in this particular case that route is not appropriate as Councillors will have to vote on the proposed site allocations, and are not able to publicly voice their voting intentions in advance of that meeting.

I have therefore made arrangements for the petition to be referenced in the following ways to ensure that the strength of feeling amongst residents is known and understood:

- [Minutes of Council 14 December 2017 – petition presented](#) (minute item 8)
- I forwarded a copy of my e-mail dated 4<sup>th</sup> January 2018 to Executive Members and Ward Councillors for their awareness
- [Minutes of Executive 8 January 2018 – verbal update](#) (minute item 5)

- Planning Committee reports 24 January 2018 – full wording of online petition included as representations in Officer's reports:
  - [Taylor Wimpey UK application](#) (see bottom of page 4)
  - [Bargate Homes Ltd application](#) (see mid page 4)
  - [Foreman Homes Ltd application](#) (see page 5)
- [Minutes of Council 23 February 2018](#) – there will be a further verbal update to Members advising of the petition and the subsequent actions taken

As the lead petitioner's representative, you will be advised when the petition can be debated by Council.

In the meantime, it will be possible for you to apply to give a deputation at the Planning Committee when an application comes for determination relating to the site allocations as listed in your petition. For example, the three planning applications for Warsash at the Planning Committee on Wednesday 24 January. If you would like to give a deputation you need to let us know by Monday 22 January at 12 noon. [Full details of our Deputation Scheme and how to apply are on our website.](#) If you would find it more convenient, please let me know via e-mail by 12 noon on Monday should you wish to make a deputation (I am not in the office on Monday myself but my e-mails will be picked up). I would urge you to do this in your capacity as the lead petitioner as this will then be treated separately to any application being made by the Save Warsash and the Western Wards group under the amenity group scheme. (You would effectively have two deputation spots).

5. **Your description of 'pre-determining the issues' sounds as far from a democratic process as you can get. To prevent councillors, who have been voted into their role by residents, from taking the strength of feeling from those residents into account at ANY stage of the proceedings sounds like selective gagging orders to me.**

Pre-determination

In relation to issues of pre-determination, all Elected Members are bound by a [Code of Conduct](#) and the principles of natural justice, which requires them to adhere to certain principles pertaining to public office.

Members of the Planning Committee would obviously be present at a meeting of the Full Council. Whilst they are free to express an opinion, and are not in any way "gagged", they must take care not to compromise their position at law in that they then may have predetermined how they will vote on any matter that will subsequently come before the Planning Committee. To do so would render that decision invalid and open to legal challenge through the courts.

I am sure you will understand that certain opinions expressed in a public forum could potentially make it difficult for them to objectively assess and determine a specific planning application. If either the applicant, or any party objecting to a proposed development, were able to make reference to a

strong opinion expressed in public, either in favour or against the application, then that particular decision would be open to legal challenge.

All Members of the Planning Committee receive briefing and guidance on the law and avoiding pre-determination and there is a useful guidance document produced by the Planning Advisory Service and the Department for Communities and Local Government known as [Probity in Planning](#). This document includes a section on “predisposition, predetermination, or bias” from page 8.

As the Planning Committee is a quasi-judicial committee, our Members are expected to abide by these requirements and to seek advice from the Council’s Solicitor should there be a conflict of interest or if they have strong views about any particular application which has already been voiced in public.

- 6. I will repeat a question I have posed to Sean Woodward. Perhaps you could provide me with some clear suggestions on alternative routes to getting us heard. The question is:**

**So the 'consulted' residents of Warsash, in huge numbers, are following due process to get heard, but cannot. Please tell us what we need to do to make you hear us.**

I can understand that you and your group feel you are not being listened to; I do hope my e-mail has reassured you that this is absolutely not the case. As outlined above, although your petition cannot be debated at a Council meeting until after the Local Plan has been adopted, you will be able to make a deputation at meetings in the meantime.

If you have any further questions, please do contact me.

Kind Regards

Leigh

Leigh Usher  
Head of Democratic Services  
Fareham Borough Council  
01329 824553



---